Virginia Regulatory Town Hall

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# Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| **Agency name** | DEPT. OF MEDICAL ASSISTANCE SERVICES |
| **Virginia Administrative Code (VAC) citation** | 12 VAC 30-120-260 TO 12 VAC 30-120-350; 12VAC 30-60-147; 12 VAC 30-60-200; 12 VAC 30-120-360; 12 VAC 30-120-370; 12 VAC 30-141-10; 12 VAC 30-141-20; 12 VAC 30-141-70; 12 VAC 30-141-200; 12 VAC 30-141-500; 12 VAC 30-141-570; 12 VAC 30-141-660; 12 VAC 30-141-670; 12 VAC 30-141-680; 12 VAC 30-141-730; 12 VAC 30-141-830; 12 VAC 30-141-850, and; 12 VAC 30-141-880 |
| **Regulation title** | WAIVERED SERVICES—MEDALLION (Part V) and related affected regulations |
| **Action title** | Repeal MEDALLION |
| **Date this document prepared** | |

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

## Preamble

*The APA (Code of Virginia § 2.2-4011) states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of subdivision A. 4. of § 2.2-4006.*

*1) Please explain why this is an emergency situation as described above.*
*2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.*

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The repeal of the MEDALLION primary care case management program (PCCM) is the result of the expansion of managed care programs (MCOs) throughout the Commonwealth. The

MEDALLION program was developed, in 1991, as the first managed care service delivery mechanism in Virginia. This program paid primary care providers a small monthly fee to be the 'medical home' for their Medicaid patients, providing referrals to specialists and care coordination. MEDALLION has continued to operate until now as either the sole managed care option in some localities or as an alternative managed care option in localities having only one MCO. With the expansion of MCOs statewide, effective July 2012, the PCCM program is no longer needed. This change affects both Medicaid (Title XIX) and FAMIS (Title XXI). This change also affects numerous other regulations that merely reference the PCCM program.

Section 2.2-4011 of the *Code of Virginia* states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006(A)(4). The 2012 *Acts of the Assembly*, Chapter 3, Item 307 RR (a) directed the agency to expand its managed care service delivery system to the final remaining areas of the state not already covered by managed care—the Roanoke/Alleghany area and far Southwest Virginia.

The Governor is hereby requested to approve this agency's adoption of the emergency regulations entitled Waivered Services—Repeal MEDALLION (12 VAC 30-120-260 through 12 VAC 30-120-350, and; 12VAC 30-60-147; 12 VAC 30-60-200; 12 VAC 30-120-360; 12 VAC 30-120-370; 12 VAC 30-141-10; 12 VAC 30-141-20; 12 VAC 30-141-70; 12 VAC 30-141-200; 12 VAC 30-141-500; 12 VAC 30-141-570; 12 VAC 30-141-660; 12 VAC 30-141-670; 12 VAC 30-141-680; 12 VAC 30-141-730, 12 VAC 30-141-830; 12 VAC 30-141-850, and; 12 VAC 30-141-880) and also authorize the initiation of the promulgation process provided for in § 2.2-4007 *et seq*.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority. [Please cite the authority you are using to promulgate an emergency regulation.]???*

Chapter 3 of the *2012 Acts of Assembly*, Item 307 N established the agency's authority to seek federal approval of changes to its MEDALLION waiver. As of June 21, 2012, CMS has approved Virginia's request to expand its managed care program and repeal its PCCM program.

## Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The MEDALLION (primary care case management) regulations (12 VAC 30-120-260 through 12 VAC 30-120-350) are recommended for repeal because they are no longer needed with the advent of statewide managed care organization service delivery. Once managed care organizations provide health care services throughout the Commonwealth, there will be no need to offer this alternative service delivery system. This repeal action also affects the Family Access to Medical Insurance Security (FAMIS and FAMIS-MOMS) programs. This repeal action will not affect the health, safety, or welfare of either Medicaid individuals or citizens.

Repealing the MEDALLION program is not expected to be controversial because managed care organizations will be operational statewide by the time this action is effective and all Medicaid beneficiaries who are eligible for managed care enrollment will be served via that system. The managed care organization expansion statewide, effective July 1, 2012, renders the MEDALLION program obsolete. Medicaid beneficiaries who are excluded from managed care will receive their required medical care via the ongoing fee-for-service delivery system.

## Need

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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This action is not essential to protect the health, safety, or welfare of citizens. However, this action does conform to the administration's requirements, as set out in Executive Order 14 (2010).

*'General Policy:*

*'J. Regulations shall not be considered perpetual and will be subject to periodic evaluation and review and modification, as appropriate, in accordance with the APA, and policy initiatives of the Governor".*

## Substance

*Please detail any changes that will be proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate.*

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The primary regulations affected by this action are MEDALLION (Part V) (12VAC 30-120-260 through 12 VAC 30-120-350). Other regulations containing merely references to PCCM are as follows: 12VAC 30-60-147; 12 VAC 30-60-200; 12 VAC 30-120-360; 12 VAC 30-120-370; 12 VAC 30-141-10; 12 VAC 30-141-20; 12 VAC 30-141-70; 12 VAC 30-141-200; 12 VAC 30-141-500; 12 VAC 30-141-570; 12 VAC 30-141-660; 12 VAC 30-141-670; 12 VAC 30-141-680; 12 VAC 30-141-730, VAC 30-141-830, and VAC 30-141-850.

In December 1991, the Centers for Medicare and Medicaid Services (CMS) approved the Commonwealth's 1915(b) waiver application to implement the MEDALLION primary care case management (PCCM) program. The goal of the MEDALLION program was to improve Medicaid individuals' quality of care and to assist in controlling the Commonwealth's escalating health care costs. The MEDALLION program began as an experiment in managed care to address the fact that (i) many physicians were refusing (in 1990) to provide care to Medicaid recipients; (ii) hospital emergency rooms were often used for primary care; and (iii) medical care costs were increasing. The MEDALLION PCCM program began in four pilot cities and counties in January 1992. At its inception, it was intended to be a stepping stone towards managed care for the entire Commonwealth.

The initial response on the part of providers and beneficiaries was positive and the program achieved cost savings. In 1993, CMS approved the phase-in of the program statewide. The MEDALLION program was expanded statewide in 1995 and Virginia became one of the first states to expand its PCCM program eligibility to cover beneficiaries in the Aged, Blind, and Disabled categories.

MEDALLION is based on the concept of building ongoing relationships between providers and Medicaid recipients. MEDALLION's purpose was to encourage a relationship between the Primary Care Physician (PCP) and Medicaid individuals resulting in a trusting environment called the "medical home." The goals of the MEDALLION program included: (i) enhancing access to care; (ii) providing for the continuity of care; (iii) providing a "medical home"; (iv) promoting improved patient compliance and responsibility when accessing medical care; and, (v) increasing physician participation in the program. This was accomplished by linking beneficiaries with sources for coordinated primary care, assuring appropriate use of inpatient and emergency room care, reducing unnecessary prescriptions and laboratory tests, and improving access to routine and urgent primary care. MEDALLION provided for all services contained in the State Plan for Medical Assistance.

As with other PCCM programs, the PCP acted as a gatekeeper, providing or coordinating the medical needs of beneficiaries. The primary care provider was the first contact for care offering coverage seven days a week, twenty-four hours a day. The PCP assumed a long-term responsibility for beneficiaries' health while coordinating care within the health care system, especially visits to specialists. Under the MEDALLION program, providers who enrolled as PCPs included, but were not limited to, general practice, family practice, internal medicine, and pediatricians. In Medicaid, the PCP/patient ratios of MEDALLION have compared favorably to other health care delivery systems.

The MEDALLION program provided DMAS with an introduction to managed care. It defined the managed care eligible population, and changed the way individuals and providers viewed Medicaid enrollees. Because MEDALLION introduced the concept of a PCP to Virginia Medicaid, Medicaid individuals became accustomed to being viewed as "clients" who were introduced to the concept of seeking referrals. As a result, MEDALLION produced better medical outcomes and promoted the physician/patient relationship, preventive care, and patient education, while reducing the inappropriate use of medical services as exists in fee-for-service

Medicaid. The MEDALLION program became the foundation of the (former) Options and (current) Medallion II (MCO) programs.

With federal approval, DMAS expanded its network of Managed Care Organizations to far southwest Virginia this year (July 1, 2012). With the advent of statewide managed care, the MEDALLION program will become obsolete.

This change also affects the agency's Title XXI program, Family Access to Medical Insurance Security (FAMIS), and FAMIS MOMS. The changes in Chapter 141 are technical in nature to maintain consistency between Title XIX and Title XXI. The changes in Chapter 60 (Standards Established and Methods Used to Establish High Quality of Care) are also technical in nature to maintain consistency across the *Virginia Administrative Code*.

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change, intent, and likely impact of proposed requirements |
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| 12 VAC 30-120-260 thru 120-350 | | MEDALLION program requirements. | Proposed for repeal. MEDALLION is no longer needed with the expansion of managed care throughout the entire state. |
| 12VAC 30-60-147 and 60-200; 12 VAC 30-120-360 and 120-370; 12 VAC 30-141-10, 20, 70, 200, 500, 570, 660, 670, 680, 730, 830, 850, and 880. | | | References to PCCM are being removed from other regulations where they appear. |

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also describe the process by which the agency has considered or will consider, other alternatives for achieving the need in the most cost-effective manner.*

Providers who were PCPs with MEDALLION were paid small per member/per month fees to be the 'medical home' for their assigned clients. These payments will no longer be made. The

majority of these same PCPs are expected to successfully complete the health plans' credentialing processes and therefore be added to the various plans' networks.

Those providers who do not pass the MCOs' credentialing processes, likely due to issues of quality of care, may not look favorably on the expansion of managed care and the termination of the MEDALLION program. These providers will lose both clients and the extra per member/per month fees that DMAS has been paying. However, the beneficiaries who have been in their care under MEDALLION will, as a result of being in an MCO, receive improved quality of care.

With the onset of statewide healthcare services coverage by managed care organizations, the need for the MEDALLION program regulations has become obsolete. Given the administration's emphasis on expanding managed care to more localities and more distinct populations of Medicaid individuals, DMAS amended the CMS Managed Care Waiver to remove the MEDALLION program. This amendment has been federally approved, DMAS no longer receives any federal matching dollars for the MEDALLION program.

## Public participation

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public meeting is to be held to receive comments on this notice.*

*Please also indicate, pursuant to your Public Participation Guidelines, whether a panel has been used in the development of the emergency regulation and whether it will also be used in the development of the proposed regulation.*

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The agency is seeking comments on the regulation that will permanently replace this emergency regulation, including but not limited to 1) ideas to be considered in the development of the permanent replacement regulation, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (**http://www.townhall.virginia.gov**), or by mail, email, or fax to Patti Davidson, Managed Care Programs, DMAS, 600 East Broad Street, Suite 1300, Richmond, VA 23219 or Davidson.Patti@dmas.virginia.gov . Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

## Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

This action is not expected to have any impact on families as their health care services is now being obtained from managed care organizations.